

Exhibit No.:

Issues: In-State Access Recovery
Fee

Witness: William L. Voight

Sponsoring Party: MO PSC Staff

Type of Exhibit: Rebuttal Testimony

Case No.: TT-2002-129

Date Testimony Prepared: July 7, 2005

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

REBUTTAL TESTIMONY

OF

WILLIAM L. VOIGHT

**AT&T COMMUNICATIONS OF
THE SOUTHWEST, INC.**

CASE NO. TT-2002-129, ET AL.

**Jefferson City, Missouri
July 2005**

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of AT&T Communications)
of the Southwest, Inc.'s Proposed Tariff to)
Establish a Monthly Instate Connection)
Fee and Surcharge.)

Case No. TT-2002-129

AFFIDAVIT OF WILLIAM L. VOIGHT

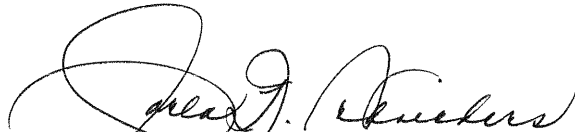
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

William L. Voight, of lawful age, on his oath states: that he has participated in the preparation of the following Rebuttal Testimony in question and answer form, consisting of 7 pages of Rebuttal Testimony to be presented in the above case, that the answers in the following Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.



William L. Voight

Subscribed and sworn to before me this 7th day of July, 2005.


Notary Public

My commission expires

June 7, 2008

CARLA K. SCHNIEDERS
Notary Public - Notary Seal
State of Missouri
County of Cole
My Commission Exp. 06/07/2008

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1 Missouri. As necessary and appropriate, I also provide assistance to the Commission,
2 upper management, and members of the General Assembly on legislative matters.

3 **Q. What is your education and previous work experience?**

4 A. I received a Bachelors of Science degree with a major in economics from
5 Lincoln University in Jefferson City, Missouri. I have approximately 20 years of
6 telecommunications industry experience and approximately 12 years of
7 telecommunications regulatory experience.

8 **Q. Have you previously testified before the Commission?**

9 A. Yes, a list of cases where I have testified is attached as Schedule 1.

10 **Q. What is the purpose of your Rebuttal Testimony in this case?**

11 A. My testimony is responsive to the Direct Testimony filed by Daniel P.
12 Rhinehart on behalf of AT&T; James A. Appleby on behalf of Sprint; and Andrew M.
13 Graves on behalf of MCI.

14 **Q. Would you please summarize your testimony?**

15 A. On behalf of the Telecommunications Department Staff (Staff), I support
16 the manner in which the companies have imposed their In-State Access Recovery Fee,
17 which I will refer to as the In-State Fee or simply as "the Fee." My testimony examines
18 the reasons for the In-State Fee as set forth in the Direct Testimony of three company
19 witnesses. I also support the Fee because, after a series of filings and question-and-
20 answer sessions on the record, the Commission previously approved the In-State Fee. No
21 material facts have changed since the original Commission decision that would cause
22 Staff to change its position in this matter.

1 **Q. Would you comment on the Direct Testimony of AT&T witness**
2 **Rhinehart?**

3 A. Yes. I accept the facts and analysis in Mr. Rhinehart's Direct Testimony as
4 correct. Mr. Rhinehart's testimony contains a thorough description and a brief history of
5 the Fee (including a 2004 price increase). Mr. Rhinehart discusses customer notice and
6 ongoing information provided to customers about the Fee. Mr. Rhinehart points to
7 numerous other jurisdictions where a similar Fee has been implemented. Most
8 importantly, Mr. Rhinehart's testimony demonstrates the reasonableness of the In-State
9 Fee. Given the relatively high exchange access rates in Missouri, AT&T is, in my view,
10 justified in charging the In-State Fee.

11 **Q. Would you comment on the Direct Testimony of Sprint witness**
12 **Appleby?**

13 A. Yes. I also accept the facts and analysis in Mr. Appleby's testimony as
14 correct. In particular, Mr. Appleby discusses the competitive long distance market in
15 Missouri, and Sprint's compliance with the Federal Truth in Billing rules in the
16 application of its In-State Recovery Fee. With the aid of supporting schedules,
17 Mr. Appleby's Direct Testimony compares the price of exchange access service in
18 Missouri to a national average, and depicts the cost differential of high intrastate
19 exchange access rates on Sprint's ability to serve residential customers in Missouri.

20 Mr. Appleby discusses and reviews the nature of long distance telephone service
21 in Missouri. Beginning at page 8, line 22, Mr. Appleby also discusses non-regulated
22 segments of the industry such as wireless communications and Voice over Internet
23 Protocol service providers (VoIP), and offers these segments of the industry as further

1 evidence of competition faced by Sprint. Although wireless and VoIP services are not
2 regulated, it is my opinion that these alternative venues must be given some competitive
3 consideration, especially for residential applications. At page 10, line 10 of his Direct
4 Testimony, Mr. Appleby also discusses service alternatives for consumers that have very
5 limited long distance communications needs. Thus, according to Mr. Appleby, customers
6 may also avoid the charge by not presubscribing to a long distance provider. In my view,
7 Mr. Appleby's testimony adequately demonstrates the reasonableness of the In-State Fee.

8 **Q. Would you comment on the Direct Testimony of MCI witness Graves?**

9 A. Yes. Not unlike the other company witnesses, Mr. Graves comments on
10 the extensive array of regulated and non-regulated competitive long distance choices
11 available to consumers in Missouri (page 10, line 16). Mr. Graves points to the
12 frequency with which customers switch long distance carriers, and opines that the
13 Commission should permit such market-based behavior to substitute for regulation and
14 for assurance that rates are reasonable (page 13, line 19). Mr. Graves attaches supporting
15 schedules to demonstrate the ease with which customers can compare one provider to
16 another, and states that customers are free to choose another provider if they object to the
17 In-State Access Recovery Fee (page 20, line 9).

18 Mr. Graves also comments on the "exorbitant" access charges in Missouri (page
19 16, line 2) and offers statements from the "Telco Year In Review – 2004" to demonstrate
20 MCI's position. Additionally, Mr. Graves quotes from the Commission's Report and
21 Order in Case No. TR-2001-65, as well as from the testimony of Staff witness Dr. Ben
22 Johnson and AT&T witness Matt Kohly in that same case, as evidence of high access
23 rates in Missouri. Mr. Graves offers other jurisdictions where similar charges are in

1 effect (page 18, line 13) and states that such charges are common in the industry (page
2 18, line 21). Mr. Graves states that MCI's rate application does not misrepresent the fee,
3 and would not violate the Commission's proposed separate charge billing rule in Case
4 No. TX-2005-0258 (page 20, line 18). Moreover, according to Mr. Graves, MCI's fee
5 does not violate the FCC's March 2005 proposed "Truth and Billing Format" rulemaking
6 as per FCC CC Docket No. 98-170 (page 21, line 5).

7 In summary, I accept the facts and analysis in MCI witness Graves' testimony as
8 correct. In my view, Mr. Graves' Direct Testimony adequately demonstrates the
9 reasonableness of MCI's In-State fee.

10 **Q. Mr. Voight, may the Commission apply a "just and reasonableness"**
11 **standard to the rates, terms, and conditions of service offerings of competitive**
12 **carriers?**

13 A. Although I am not an attorney, I am advised the Missouri Court of
14 Appeals for the Western District addressed this matter in its Opinion regarding this case
15 that it handed down on August 10, 2004. According to the Court's Opinion, the
16 Commission may review the "justness and reasonableness" of competitive services
17 offered by competitive companies. The In-State Fee that is the subject of this case is an
18 example of the type of charge for which the Commission may indeed examine for
19 justness and reasonableness. According to my legal counsel, Section 392.200.1 is the
20 relevant statute giving the Commission the authority to review the justness and
21 reasonableness of these rates. Recent passage of Senate Bill 237 and its expected
22 implementation on August 28, 2005 does not appear to change this authority for
23 competitively classified companies such as AT&T, Sprint, and MCI.

1 **Q. Do you have an opinion as to the justness and reasonableness of the**
2 **In-State Fee which is the subject of this Case?**

3 A. Yes. Based primarily on the level of access rates in Missouri, it is my
4 opinion that In-State Access Recovery Fees established in this case are just and
5 reasonable. However, at some point it would seem that fees substantially more than the
6 current level should be examined for justness and reasonableness. At higher fee levels, I
7 am concerned that the distinction between such “fees” and the “base charges” may
8 become so clouded as to render the distinction meaningless to the general body of
9 residential rate payers.

10 **Q. Do you have any comments regarding any existing rulemakings or**
11 **pending rulemakings by the Commission that may be of relevance in this**
12 **proceeding?**

13 A. Yes. One existing rule and one pending rulemaking may be relevant to this
14 proceeding. Both the existing rule and the pending rulemaking try to ensure the customer
15 is adequately informed about all applicable charges. In my view, none of the
16 Commission’s rules prohibit the application of an In-State Access Recovery Fee.

17 Existing Missouri Commission rule 4 CSR 240-33.040(8) requires a company to
18 provide an itemized account of monthly charges during the customer’s first billing
19 period. This rule is really only applicable to this proceeding if a company desires to
20 combine the In-State Access Recovery Fee with other monthly charges. This particular
21 rule is somewhat moot for the companies applying the charge since all companies
22 currently applying the Fee separately identify such a charge each month on the
23 customer’s bill.

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1 The Commission is currently considering a pending rulemaking in Case No.
2 TX-2005-0258 whose purpose is to clarify items that may be separately identified on
3 customer bills, provide guidance for labeling such items and require clear disclosure to
4 customers of the total anticipated service charges for new service for which they contract.
5 One of the requirements proposed by this pending rulemaking is to require all
6 telecommunications carriers to provide clear, full and meaningful disclosure of all
7 monthly charges and usage sensitive rates at the time of the execution of a service
8 agreement between the company and the customer, or at the time the customer otherwise
9 contracts with the company, but in any event prior to the date service is initiated. If
10 approved, this pending rulemaking ensures that telecommunications companies will
11 always provide complete disclosure of all applicable rates prior to the date service is
12 initiated.

13 **Q. Can you summarize your testimony?**

14 A. I have no objections to the continued application of the In-State Fee
15 currently applied by AT&T, Sprint, and MCI. No material facts have changed since the
16 Commission approved the original filings. The Direct Testimony of AT&T, Sprint, and
17 MCI outlines reasonable supporting rationale for these fees. No Commission rules are
18 being violated through the continued application of an In-State Fee. The Commission
19 should allow companies to continue to apply such fees; however, the just and
20 reasonableness of the fees may come into question if such fees reach higher levels than
21 currently applied.

22 **Q. Does this conclude your Rebuttal Testimony?**

23 A. Yes, it does.

William L. Voight

TESTIMONY EXPERIENCE

Case No. TR-96-28	In the Matter of Southwestern Bell's tariff sheets designed to increase Local and Toll Operator Service Rates.
Case No. TT-96-268	In the Matter of Southwestern Bell Telephone Company's tariffs to revise PSC Mo. No. 26, Long Distance Message Telecommunications Services Tariff to introduce Designated Number Optional Calling Plan.
Case No. TA-97-313	In the Matter of the Application of the City of Springfield, Missouri, through the Board of Public Utilities, for a Certificate of Service Authority to Provide Nonswitched Local Exchange and Intrastate Interexchange Telecommunications Services to the Public within the State of Missouri and for Competitive Classification.
Case No. TA-97-342	In the Matter of the Application of Max-Tel Communications, Inc. for a Certificate of Service Authority to Provide Basic Local Telecommunications Service in Portions of the State of Missouri and to Classify Said Services and the Company as Competitive.
Case No. TA-96-345	In the Matter of the Application of TCG St. Louis for a Certificate of Public Convenience and Necessity to provide Basic Local Telecommunication Services in those portions of St. Louis LATA No. 520 served by Southwestern Bell Telephone Company.
Case No. TO-97-397	In the Matter of the Petition of Southwestern Bell Telephone Company for a Determination that it is Subject to Price Cap Regulation Under Section 392.245 RSMo. (1996).
Case No. TC-98-337	Staff of the Missouri Public Service Commission, Complainant, vs. Long Distance Services, Inc., Respondent.
Case No. TO-99-227	Application of Southwestern Bell Telephone Company to Provide Notice of Intent to File an Application for Authorization to Provide In-Region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996.

Case No. TA-99-298	In the Matter of the Application of ALLTEL Communications, Inc. for a Certificate of Service Authority to Provide Basic Local Telecommunications Service in Portions of the State of Missouri and to Classify Said Services and the Company as Competitive.
Case No. TO-99-596	In the Matter of the Access Rates to be Charged by Competitive Local Exchange Telecommunications Companies in the State of Missouri.
Case No. TO-99-483	In the Matter of an Investigation for the Purpose of Clarifying and Determining Certain Aspects Surrounding the Provisioning of Metropolitan Calling Area Service After the Passage and Implementation of the Telecommunications Act of 1996.
Case No. TO-2001-391	In the Matter of a further investigation of the Metropolitan Calling Area Service after the passage and implementation of the Telecommunications Act of 1996.
Case No. TO-2001-416	In the Matter of Petition of Fidelity Communications Services III, Inc. Requesting Arbitration of Interconnection Agreement Between Applicant and Southwestern Bell Telephone Company in the State of Missouri Pursuant to Section 252 (b)(1) of the Telecommunications Act of 1996.
Case No. TO-2001-467	In the Matter of the Investigation of the State of Competition in the Exchanges of Southwestern Bell Telephone Company.
Case No. TT-2002-129	In the Matter of AT&T Communications of the Southwest, Inc.'s Proposed Tariff to Establish a Monthly Instate Connection Fee and Surcharge.
Case No. TC-2002-1076	Staff of the Missouri Public Service Commission, Complainant, vs. BPS Telephone Company, Respondent.
Case No. TK-2004-0070	In the Matter of the Application of American Fiber Systems, Inc. for Approval of an Agreement with Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, Under the Telecommunications Act of 1996.
Case No. CO-2005-0066	In the Matter of the Confirmation of Adoption of an Interconnection Agreement with CenturyTel of Missouri, LLC d/b/a CenturyTel and Spectra Communications Group, LLC d/ba CenturyTel by Socket Telecom, LLC